THE HON'BLE SRI JUSTICE P.S. NARAYANA

Writ Petition No.17121 of 2007

ORDER :

Heard the learned counsel.

The Writ Petition is filed praying for a Writ, Order or direction preferably a Writ in the nature of Writ of Mandamus, declaring the action of the 6th respondent in putting the petitioners' property viz., house bearing No.2-26/3B, on plot Nos.8 and 9 admeasuring 433 sq. yards situated at Kukatpally Village and Municipality, Ranga Reddy District, to auction in terms of the notification dated 10-07-2007, which is published in Andhra Jyothi, a Telugu daily newspaper, as being illegal, arbitrary and violative of Articles 14 and 300-A of the Constitution of India and pass such other orders.

It is stated that the second respondent herein represented that she is the owner of the property house bearing No.2-26/3B, on plot Nos.8 and 9 admeasuring 433 square yards situated at Kukatpally Village and Municipality, Ranga Reddy District. In fact, the 2nd respondent impressed upon the petitioners that excepting herself there is no other person who has got title to the property and that the title is clear and marketable. Based on the said representation made by the 2nd respondent, the petitioners by virtue of a registered sale deed bearing document No.7943/1988, dated 17-10-1988, have purchased the said property. It is further stated that the

petitioners never knew that the 2nd respondent gave guarantee to the 3rd and 4th respondent bank till 24-11-2005, on which date the officials of the 3rd and 4th respondent Bank came to the premises of the petitioners and informed that the property is a subject matter of the case filed by the 3rd and 4th respondent bank against the 1st respondent, 2nd respondent and others connected with the 1st respondent company.

Further it is averred that it is pertinent to mention that the other Directors of the 1st respondent company are neither necessary nor proper parties to the instant lis and therefore they are not arrayed as party respondents to the instant writ petition. On coming to know that there is a case filed by the 3rd and 4th respondent Bank against the 1st respondent company including the 2nd respondent, the petitioners have made an application and obtained all the certified copies in connection with the Original Application, O.A.No.315 of 1999, filed by the 3rd and 4th respondent Bank. After receipt of the certified copies, the petitioners filed a Claim Petition vide C.P.No.3 of 2007. It is further stated that it is pertinent to submit that in the year 1979, 3rd and 4th respondent Bank sanctioned loan to the 1st respondent company. On 24-09-1982, the 2nd respondent, from whom the petitioners have purchased the property mentioned hereinabove, had executed an agreement of guarantee. On a reading of the same, it is clear that guarantee is given for the overdraft amount obtained as loan by the 1st respondent

for a sum of Rs.60,000/- and for the bills purchased for Rs.50,000/-. The guarantee, if any, can only be limited to the said amount and not beyond. It is further stated that the second respondent had addressed a letter to the 4th respondent Bank on 11-12-1984. On a reading of the same, it is clear that the deposit of the title deed viz., the property of which the petitioners are now owners was given as security for repayment of Rs.60,000/- only and that too under the head 'Secured Overdraft'. The 1st respondent obtained the loan under various heads and it is only to the head viz., Secured Overdraft the 2nd respondent has given security of the property purchased by the petitioners. It is also stated that the Learned Debts Recovery Tribunal by order dated 02-07-2007 dismissed the claim petition. Assailing the correctness of the dismissal of the claim petition, the petitioners preferred regular appeal before the learned Tribunal. Along with the said appeal, they also filed an application seeking stay of all further proceedings. Further it is stated that till date, no orders on the said application had been passed by the learned Tribunal – 5th respondent. It is also stated that taking advantage of the same, the 6th respondent had issued notification.

In the light of the facts and circumstances, this Court is of the considered opinion that the writ petition be disposed of directing the fifth respondent to consider and dispose of the application praying for interim order in the pending appeal within a period of six weeks from the date of the receipt of a copy of this Court. Till then, status quo obtaining as on today to be operative.

The Writ Petition is disposed of accordingly. No

order as to costs.

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Justice

P.S.Narayana

Dated 02nd November, 2007

skmr

THE HON'BLE SRI JUSTICE P.S.NARAYANA

W.P.No. 17121OF 2007

Dated: 02nd November, 2007

BETWEEN:

Smt.Damayanthi and others

.. Petitioners

And

M/s.South Sea Chemicals Limited,
6-3-609/1/5, Anand Nagar,
Khairatabad, Hyderabad, rep. by its
Director and others

.. Respondents